

REMARKS

Objection to the Specification

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Rejection of claims 26 and 29 under section 112 par. 1

The contention that new matter has been added – or that the new claims are not supported – is respectfully traversed.

Table I on page 9 of the specification shows intermediate values of cooling and power with associated timings. This table fully supports the recitations of claims 26 and 29. The fact that the exact wording of the may not appear in the specification is not dispositive.

Reconsideration is respectfully requested.

Claim Objections

Claims 31 and 32 have been amended as requested. Applicants respectfully submit that these changes are purely pedantic in nature and therefore do not narrow the scope of the claims or give rise to any filewrapper estoppel.

Art rejections

The art rejections are respectfully traversed.

Since the references are complex, Applicants will confine their remarks to those portions of the references cited by the Examiner, except as otherwise indicated. Applicants make no representation as to the contents of other portions of the references.

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Any of the Examiner's rejections and/or points of argument that are not addressed below would appear to be moot in view of the following. Nevertheless, Applicants reserve the right to respond to those rejections and arguments and to advance additional arguments at a later date. No arguments are waived and none of the Examiner's statements are conceded.

Claims 26 and 29

These claims recite receiving an actuation indication for switching on or switching off of a lamp. The claims further recite control signals. The control signals specify at least one intermediate value for the cooling or the power to the lamp. The control signals also specify timing relative to an actuation indication for the intermediate value.

Applicants do not find, nor does the Examiner indicate, any place where the reference teaches or suggests that control signals specify timing would be useful. As far as Applicants can tell, the control signals of the reference inherently have timings, but they do not specify timing. Such specified timings are particularly useful during switching on and switching off, because dynamic sensing mechanisms such as those in the reference take time to reach equilibrium and there is not sufficient time for such equilibrium to occur during switching on and switching off. Reconsideration of the rejection is accordingly respectfully requested.

As far as Applicants can tell the reference describes controlling cooling during operation of the lamp, but does not mention cooling during switching on or switching off. During switching on, the lamp is set at a default level, per col. 9, line 52. Cooling then occurs responsive to sensed temperature -- during subsequent operation. Applicants do not find

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anything about what happens during switching off. It would appear that cooling mechanisms simply go off abruptly upon switching off.

Often the heart of an invention is recognizing that there is a problem to be solved in the first place. Applicants, in their disclosure, recognize a particular problem during powering on and off. Applicants do not see in Belliveau any similar recognition – especially in powering off. In the absence of recognition that there is a problem, it is not obvious to look for a solution. Applicants accordingly respectfully submit that the motivation to look for this solution comes from Applicants' disclosure, constituting impermissible hindsight.

Reconsideration is accordingly respectfully requested.

Claim 28

Claim 28 recites that control signals specify more than one timing.

Applicants do not see where the Examiner purports to find this in the reference. As far as Applicants can tell, no control signals specify timings in the reference. Applicants accordingly respectfully submit that the Examiner has not made a *prima facie* case of obviousness here.

Claim 30

This claim recites a memory for storing a switching schedule for intermediate values of cooling and lamp power. A memory to store a plurality of values of cooling parameters is particularly valuable in the context of switching on and off a lamp, since using a memory with stored values allows for faster and more orderly power up and down.

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The Examiner alleges that this is obvious from the reference, merely because the reference has a memory. Applicants respectfully disagree.

The thrust of Belliveau is dynamically setting cooling levels in response to sensing temperature, not using stored values for control. The only stored value Applicants find — at least in the portions cited by the Examiner — is singular, not plural, and only of lamp power, not of cooling power, per col, 9, l. 52. The memory mentioned in the passages noted by the Examiner is not actually shown or discussed in the reference. Accordingly any such memory is likely to be used for storing program code for effectuating control. In fact, Belliveau apparently fails to notice that there are special issues during powering up down and fails to address them, so far as Applicants can tell — accordingly there is no motivation there to consider storing values relating to cooling.

Applicants accordingly respectfully submit that the Examiner has not made a *prima facie* case of obviousness here.

Claim 32

Claim 32 particularly relates to switching off, and recites stepwise reducing cooling and lamp power during switching off.

The Examiner purports to find this in the reference. Applicants respectfully disagree. Applicants do not find any indication that cooling operates during switching off in this reference at all. So far as they can tell, switching off the lamp would switch off the cooling control mechanisms as well. If the Examiner intends to persist in this rejection, he is respectfully

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requested to particularly point out what the reference says relating to switching off the lamp and cooling problems during switching off.

Claim 33

This claim recites sensing a parameter of a cooling device.

The Examiner finds this obvious in light of col. 8, lines 33-65 of the reference, because the reference talks about multiple sensors. Applicants respectfully submit that the Examiner mischaracterizes the reference. Where multiple sensors are suggested, per col. 8, lines 52 et seq., each sensor is indicated to be a temperature sensor for some part of the lamp. There is no teaching suggestion here that there would be any desirability to detecting other parameters, e.g. of the cooling device. Reconsideration of this rejection is accordingly respectfully requested.

Claims 40-41

Claim 40 recites a sensor for sensing a property of a gas stream leaving the cooling device.

The Examiner purports to find this obvious in light of the same portion of the reference cited with respect to claim 33. Again Applicants respectfully submit that the Examiner mischaracterizes the reference. At least in the portions cited by the Examiner, all sensors in the reference are thermal sensors.

Claim 41 distinguishes even more clearly over the reference by reciting that the property is pressure, volume, or velocity – none of which appears to be taught or suggested in the reference, at least as applied by the Examiner.

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Reconsideration of these rejections is accordingly respectfully requested.

Claim 38

Claim 38 has been amended to correct the punctuation.

New Claims

New claims have been added particularly with respect to the switching off situation, which is not addressed in the art of record – as explained above.

Information Disclosure

An information disclosure relating to US 6788009, DE10028657, and US5583396 was submitted February 11, 2008. These documents were cited in a foreign patent office against the claims in a counterpart application in a communication dated 11/30/06. A copy of that communication is attached, but it should be noted that the claims being discussed in the foreign office action are not necessarily the same as those before the US PTO – and moreover the legal standards for rejection there may be different from those in the US.

Please charge any fees other than the issue fee to deposit account 14-1270. Please credit any overpayments to the same account.

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Applicants respectfully submit that they have addressed each issue raised by the Examiner — except for any that were skipped as moot — and that the application is accordingly in condition for allowance. Allowance is therefore respectfully requested.

Respectfully submitted,

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Attachment

ATTACHMENT




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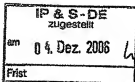
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Application No. 03 812 628.0 - 1239	Ref. PHDE020302 EP	Date 30.11.2006
Applicant Philips Intellectual Property & Standards GmbH		

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Communication pursuant to Article 96(2) EPC

The examination of the above-identified application has revealed that it does not meet the requirements of the European Patent Convention for the reasons enclosed herewith. If the deficiencies indicated are not rectified the application may be refused pursuant to Article 97(1) EPC.

You are invited to file your observations and insofar as the deficiencies are such as to be rectifiable, to correct the indicated deficiencies within a period

of 2 months

from the notification of this communication, this period being computed in accordance with Rules 78(2) and 83(2) and (4) EPC.

One set of amendments to the description, claims and drawings is to be filed within the said period on separate sheets (Rule 36(1) EPC).


Failure to comply with this invitation in due time will result in the application being deemed to be withdrawn (Article 96(3) EPC).



Speiser, Pierre
 Primary Examiner
 for the Examining Division

Enclosure(s): 3 pages reasons (Form 2906)
 copy of US2002/135324, DE10028657 and US5583396 for applicant.

ATTACHMENT

	Beschreibung/Protokoll (Anlage)	Communication/Minutes (Annex)	Notification/Procès-verbal (Annexe)
Datum Date	30.11.2006	Sheet Sheet Page	1
Annex-No.:	Application No.: 03 812 628 . C	Demande n°:	

The examination is being carried out on the **following application documents**:

Description, Pages

5-9	as published			
1-4, 4a	received on	17.08.2006	with letter of	17.08.2006

Claims, Numbers

1-10	received on	17.08.2006	with letter of	17.08.2006
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Drawings, Sheets

1/2, 2/2	as published
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The following documents (D) are cited by the examiner (see the Guidelines, C-VI, 8.7). Copies of the documents are annexed to the communication and the numbering will be adhered to in the rest of the procedure:


D9: US2002/135324

D10: DE 10028657

D11: US 5 583 396.

- 1) As already mentioned in the communication dated 08/06/2006, claims 7 to 9 refer

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	Bescheid/Protokoll (Anlage)	Communication/Minutes (Annex)	Notification/Procs-verbal (Annexo)
	Datum Date 30.11.2006	Blatt Sheet Feuille 2	Annähe-Nr.: Application No.: Demande n°: 03 812 628.0

back to features of claim 1 which are in fact optional, according to the Guidelines C-III,4.8 ; these claims are therefore to be considered as independent claims, as they focus on a lamp driver respectively a control unit as such.

The applicant has amended the previous formulation "for use as the lamp driver of a lighting unit" by "adapted for use in a lighting unit", respectively the previous formulation "for use as the control unit of a lamp driver" by "adapted for use in a lamp driver". These amendments do however not allow to overcome the objection raised previously, for the following reasons:

- (i) It is unclear which technical (as opposed to linguistic) features distinguish an apparatus which is "adapted for use in a lighting unit" from an apparatus which is merely "suitable for use in a lighting unit". Therefore the criteria for clarity set forth in the Guidelines C-III,4.5 (last sentence) is not met, especially when comparing the subject-matter of claim 7 with respect to the prior art D2.

Indeed D2 discloses (col 7, lines 22- 67 ; fig 1, 3) a lamp driver used in a lighting unit, said lighting unit comprising:


- a trigger circuit(3,8) assimilable to the trigger circuit(21,22) as described in the present application on page 6 (lines 5-14)
- a control unit(16) with a microprocessor(163), temperature sensing means(152,13), memory means(14,165,166) storing the switching schedule, and therefore at least suitable for storing a switching schedule as intended in the present application.

- (ii) Notwithstanding this lack of clarity combined with lack of novelty with respect to D2, the formulation "adapted for use" does not meet the criteria for clarity set forth in the Guidelines C-III,4.7.

Indeed, "adapted for use" is a formulation in terms of the result to be achieved. In this instance, however, such a formulation is not allowable because it appears possible to define the subject-matter in more concrete terms, viz. in terms of how the effect is to be achieved, without unduly restricting the scope of protection.

Therefore claims 7 to 9 infringe Articles 84 and 54. Besides infringing Articles 84 and 54, this way of drafting the claims still infringes Article 82 (unity), as the common concept identified by the applicant in his latest letter of reply, namely that the claimed apparatuses

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	Beschuld/Protokoll (Antrag)	Communication/Minutes (Annex)	Notification/Procès-verbal (Annexe)
Datum Date	30.11.2006	Blatt Sheet Folio	3
Annexes-Nr.: Application No.: Demande n°:	03 812 628.0		

are meant for controlling a lamp and/or a cooling device in order to extend the service life of the lamp, is clearly not novel (see as non exhaustive example in D2: col 2, line 53 - col 3, line 30). Would the applicant maintain such form of claim drafting, a refusal for the mentioned grounds is to be expected at the next step of the procedure.

2) New claim 1, after amendment, still reads on document D8, as D8 discloses (page 11, lines 3-16) a lighting unit with a lamp driver and a cooling device(65,66), where during switching off of the lighting unit the cooling device remains activated for a given time (1mn), and is then switched-off in one step. It is submitted that the mentioned way of controlling the cooling device falls under the broad definition "or stepwise" of present claim 1.

Therefore claim 1 lacks novelty with respect to D8.

3) Unless the applicant clearly limits the scope of protection to a switching schedule which clearly and unambiguously distinguishes from the available prior art (e.g by defining "alternatively and stepwise" concerning the fourth and only possibly inventive switch mode, no prospect for grant but rather a refusal under Article 97(1) is to be expected.

With this respect, it is noted that the third switching schedule, mentioned on page 7 (lines 29-33), is already known for the same purpose from D9 (see: paragraphs 39-42 ; abstract ; Fig 4,5) , D10 (see abstract) and D11 (see: abstract ; Fig 2). A new claim 1 additionally defining said third switching schedule would therefore lack an inventive step with respect to each of the prior art documents D9, D10 or D11, as providing in addition to the third switching schedule a cooling device without operating it could not be seen as involving an inventive step over D9, D10 or D11 .

EPO Form 9908 01/9/2006